

R162-2f-403a. Trust Accounts - General Provisions.

- (1) A principal broker shall:
 - (a)(i) if engaged in listing or selling real estate, maintain at least one real estate trust account in a bank or credit union located within the state of Utah; and
 - (ii) if engaged in property management, refer to Subsection R162-2f-403b(3);
 - (b) at the time a trust account is established, notify the division in writing of:
 - (i) the account number;
 - (ii) the address of the bank or credit union where the account is located; and
 - (iii) the type of activity for which the account is used.
 - (2) A trust account maintained by a principal broker shall be non-interest-bearing, unless:
 - (a) the parties to the transaction agree in writing to deposit the funds in an interest-bearing account;
 - (b) the parties to the transaction designate in writing the person to whom the interest will be paid upon completion or failure of the sale;
 - (c) the person designated under ~~this~~ Subsection (2)(b):
 - (i) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code; and
 - (ii) operates exclusively to provide grants to affordable housing programs in Utah; and
 - (d) the affordable housing program that is the recipient of the grant under ~~this~~ Subsection (2)(c)(ii) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code.
 - (3) A principal broker may not deposit into the principal broker's real estate trust account funds received in connection with rental of tourist accommodations where the rental period is less than 30 consecutive days.
 - (4) Records of deposits to a trust account shall include:
 - (a) transaction number or unique client identifier, as applicable pursuant to Subsection R162-2f-401c(1)(k);
 - (b) identification of payee and payor;
 - (c) amount of deposit;
 - (d) location of property subject to the transaction; and
 - (e) date and place of deposit.
 - (5) Any instrument by which funds are disbursed from a real estate or property management trust account shall include:
 - (a) the business name of the registered entity;
 - (b) the address of the registered entity;
 - (c) clear identification of the trust account from which the disbursement is made, including:
 - (i) account name; and
 - (ii) account number;
 - (iii) transaction number or unique client identification, as applicable, pursuant to Subsection R162-2f-401c(1)(k);
 - (iv) date of disbursement;
 - (v) clear identification of payee and payor;
 - (vi) amount disbursed;
 - (vii) notation identifying the purpose for disbursement; and
 - (viii) check number, wire transfer number, or equivalent bank or credit union instrument identification.
 - (6) Any instrument of conveyance that is voided shall be clearly marked with the term "void" and the original instrument retained pursuant to Subsection R162-2f-401k.
 - (7) If both parties to a contract make a written claim to money held in a principal broker's trust fund and the principal broker cannot determine from any signed agreement which party's claim is valid, the principal broker may:
 - (a) interplead the funds into court and thereafter disburse:
 - (i) upon written authorization of the party who will not receive the funds; or
 - (ii) pursuant to the order of a court of competent jurisdiction; or
 - (b) within 15 days of receiving written notice that both parties claim the funds, refer the parties to mediation if:
 - (i) no party has filed a civil suit arising out of the transaction; and
 - (ii) the parties have contractually agreed to submit disputes arising out of their contract to mediation.
 - (8) If a principal broker is unable to disburse trust funds within three ~~five~~ years after the failure of a transaction, the principal broker shall remit the funds to the State Treasurer's Office as unclaimed property pursuant to Title 67, Chapter 4a~~-et seq~~.
 - (9) Trust account reconciliation. For each real estate or property management trust account operated by a registered entity, the principal broker of the entity shall:
 - (a) maintain a date-sequential record of each deposit to and disbursement ~~[all deposits to and disbursements]~~ from the account, including or cross-referenced to the information specified in Subsection R162-2f-401c(1)(k);
 - (b) maintain a current, running total of the balance contained in the trust account;
 - (c)(i) maintain records sufficient to detail the final disposition of any ~~[all]~~ funds associated with each transaction; and
 - (ii) ensure that each closed transaction balances to zero;
 - (d) reconcile the brokerage trust account records with the bank or credit union records at least monthly; and
 - (e) upon request, make all trust account records available to the division for auditing or investigation.
 - (10) The principal broker shall notify the division within 30 days if:
 - (a) the principal broker receives, from a bank or credit union in which the principal broker maintains a real estate or property management trust account, documentation to evidence that the trust account is out of balance; and

(b) the imbalance cannot be cured within the 30-day notification period.